

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 00-0463P**

**Withholding Tax  
Calendar Years 1997, 1998, and 1999**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1; 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer is an importer and manufacturer of automobile body parts for an equipment manufacturer and is owned by out-of-country companies. All production is dedicated to one customer.

The audit examination of the taxpayer's books and records revealed that it made payments to nonresident contractors that performed work in Indiana and were not registered with the Secretary of State as required under 45 IAC 1-1-214.

The audit adjusted withholding tax for payments made to nonresident contractors that were not registered with the Department of Revenue for work performed in Indiana.

**ISSUE**

I. **Tax Administration** – Penalty

Taxpayer protests the imposition of penalty.

### **DISCUSSION**

Taxpayer states it was unaware of the requirement to withhold tax for payments made to out of state contractors and did not attempt to avoid paying the proper amount of tax due. Taxpayer requests a penalty waiver.

45 IAC 1-1-213 clearly states that Indiana gross income tax is required to be withheld from any and all payments made to a nonresident contractor for performance of any work or services which are taxable to the State of Indiana. 45 IAC 1-1-216 defines withholding agent as any person, firm, organization or governmental entity of any kind making payments to nonresident contractors and prime contractors making payments to sub-contractors are considered to be withholding agents.

Taxpayer did not comply with the regulations nor did it provide reasonable cause to allow the Department to waive the penalties assessed.

### **FINDING**

Taxpayer's protest is denied.